IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

OP.No. 6438 of 2003(N)

PETITIONER:

M.SAJEEV, PROPRIETOR, ANARKALI
CHEMICALS, OTTUMALA KATTADI JUNCTION,
KATTADI (PO), KOTTARAKKARA, KOLLAM DISTRICT.

BY ADV. SRI.V.P.SUKUMAR
SRI.JAIRAM.V.MENON

RESPONDENTS:
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1. THE SALES TAX OFFICER, KOTTARAKKARA.

2. THE DEPUTY COMMISSIONER, COMMERCIAL
TAXES, KOLLAM.

3. THE DEPUTY TAHSILDAR (RR),
TALUK OFFICE, KOTTARAKKARA.

BY ADV. SHRI.PRADEEP, GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP 6438/2003

ORDER ON CMP NO. 11408/2003 IN OP NO. 6438/2003

DISMISSED.

13/11/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE REVISED ASSESSMENT ORDER DATED 24/03/2002 PASSED BY THE 1ST RESPONDENT FOR 98-99.

P2 : COPY OF THE REVISED ASSESSMENT ORDER DATED 24/03/2002 PASSED BY THE 1ST RESPONDENT FOR 99-00.

P3 : COPY OF THE REVISED ASSESSMENT ORDER DATED 24/03/2002 PASSED BY THE 1ST RESPONDENT FOR 00-01.

P4 : COPY OF THE PENALTY ORDER DATED 01/10/2002 PASSED by the 1ST RESPONDENT FOR THE YEAR 98-99.

P5 : COPY OF THE PENALTY ORDER DATED 01/10/2002 PASSED by the 1ST RESPONDENT FOR THE YEAR 99-00.

P6 : COPY OF THE PENALTY ORDER DATED 01/10/2002 PASSED by the 1ST RESPONDENT FOR THE YEAR 2000-01.

P7 : COPY OF THE APPLICATION FOR REVISION DATED 14/11/2002 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR 98-99.

P8 : COPY OF THE APPLICATION FOR REVISION DATED 14/11/2002 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR 99-00.

P9 : COPY OF THE APPLICATION FOR REVISION DATED 14/11/2002 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR 2000-01.

P10 : COPY OF THE RR NOTICE DATED 11/02/2003 ISSUED TO THE PETITIONER BY THE 3RD RESPONDENT.

P11 : COPY OF THE ORDER DATED 13/02/2003 PASSED BY THIS HON'BLE COURT IN CMP NO. 9087/2003 IN OP NO. 5137/2003.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 6438 of 2003

Dated, this the 13th day of November, 2007

J U D G M E N T

This Court has held, in **M.K.Pushparanjini, Chikku's Wood Crafts** Vs. **Sales Tax Officer and Others**, reported in 11 KTR 527, that penalty payable under Section 17(5A) of the KGST Act is automatic and there is no scope for contesting the matter in revision. However, this Court stated the circumstances in which penalty could be levied under Section 17(5A) and cases where such penalty could not be levied. Moreover, penalty levied will fluctuate / change with demand of tax, based on orders in appeal against revised assessments. Since petitioner has filed revisions, this original petition is disposed of directing the 2nd respondent revisional authority to decide Exts. P7 to P9 revisions after hearing the petitioner and based on the judgment above referred. The revisional authority is directed to pass orders on revisions within a period of three months from now. Interim orders of stay granted will continue for a period of three months from now.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg